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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/618,131  | 07/11/2003  | Daniel J. Tusavitz   | DTZ-100US           | 4424             |
| 23122   | 7590        | 01/11/2005           | EXAMINER            |                  |
| RATNERPRESTIA<br>P O BOX 980<br>VALLEY FORGE, PA 19482-0980 |             |                      |                     | LE, TAN          |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
|   |             | 3632                 |                     |                  |

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/618,131             | TUSAVITZ, DANIEL J. |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Tan Le                 | 3632                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 October 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) 1-6 and 10-18 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 7-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 22 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/11/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. This is the first office action for serial number 10/618,131. This application contains 18 claims numbered 1-18.

2. Applicant's election without traverse of the species of Figures 1-5 and 11-12, claims 7-9 in the reply filed on 10/19/04 is acknowledged.

Currently claims 7-9 are readable to the elected species.

Claims 1-6 and 10-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

3. Drawings filed 12/22/03 is approved.

4. IDS filed 7/11/03 has been reviewed and considered. A copy of considered PTO-1449 is attached herewith.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the corners" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,095,533 to Balolia in view of US Patent No. 5,299,817 to Chang (or in view with US Patent No. 4,700,959 to Lars).

Balolia discloses an adjustable mobile base (Figs. 1-6, for example) includes a set of movable deck pieces (68) each forming one of corners of the base, having an outer edge and providing a flat surface for supporting merchandise; a shoulder (between plates 66 and wheels) positioned at each corner of the base under and in support of a respective deck piece, each shoulder having opposing ends; a tubular leg extending from each of the opposing ends of each shoulder to the outer edge of the respective deck piece, further supporting the deck piece, and having a single hole (92); a dowel (42, 44, 46, 48) slidably received in each leg, each dowel having a projection engaging the hole of the leg in which the dowel is received; and a caster rotatably attached to each shoulder facilitating transportation of the base.

Balolia shows generally all that is claimed except for a single extended slot in each tubular leg.

Lars or Chang teaches each tubular leg having at least a single extended slot. One skilled in the art would have been motivated to use the extended slot of Lar or Chang for the hole of Balolia because Lars or Chang clearly teaches that in order to allow the projection to be slidably adjustable, an extended slot is necessary.

Regarding claims 8, Balolia in view of Lar or Chang each also shows the projection comprising a threaded fastener.

***Allowable Subject Matter***

7. Claim 9 is rejected, but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

211,828 to Ash

3,331,613 to Popelka

5,826,893 to Snoeyenbos

5,797,213 to Frick

Des. 415,868 to Hewitt.

The above patents disclose various types of adjustable mobile bases.

Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
Patent examiner  
January 5, 2005